



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/509,389

05/04/2005

Alan Bentley

Q83815

5050

23373

7590

05/02/2006

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

PECHHOLD, ALEXANDRA K

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/509,389

Applicant(s)

BENTLEY, ALAN

Examiner

Alexandra K. Pechhold

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 15 is objected to because of the following informalities: there should be comma or semicolon instead of a period after "barrier" in line 3. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-4, 7, 8, 10, 12-17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Oster (US 4,844,420).**

Regarding claim 1, Oster discloses a barrier unit (seen as barrier 10) capable of being mounted on a road traffic control upright (seen as post 22 and adapter 36) comprising:

- a tape cartridge (seen as spool assembly 52), hollow to define a tape storage cavity (seen as housing 12), a spindle (seen as spool 30) rotatably mounted in the cavity having tape (seen as tape 18) wound thereon, a deploying aperture in the cartridge through which at least a leading edge of the tape projects externally (shown in Fig. 1), a receiving means on the cartridge to engagingly

receive a leading edge of tape from another cartridge in use (seen as eyelet 16), mounting means (seen as the lowest portion of housing 12) on a lower part of the cartridge to mount the cartridge on or about an upper part of an upright (seen as post 22 in Figs. 1, 2, 2A, and 4), the mounting means comprising a tubular lower portion (seen as the tubular part of the lower part of housing 12) shaped to cooperatively engage around an upper portion of the upright in an interference fit (as seen in Fig. 2A since there's frictional contact between the bottom of housing 12 and adapter 36).

Regarding claim 2, the mounting means are adapted to engage the uppermost part of the road upright in the interference fit (as seen in Fig. 2A since there's frictional contact between the bottom of housing 12 and adapter 36).

Regarding claim 3, the tubular lower portion is slotted such as to be resiliently deformable (since there is a slot 24).

Regarding claim 4, the tape is an elongate thin flexible strip of material (see Col 2, lines 1-2).

Regarding claim 7, means are provided to facilitate restorage of the tape after use (since Oster discloses the tape as retractable).

Regarding claim 8, Oster discloses the spindle as comprising spring biasing means acting on the spindle (see claim 1, part b).

Regarding claim 10, the tape leading edge has a connecting portion (seen clip member 20) to be engagingly received in receiving means (seen as eyelet 16) of a cartridge of a second cartridge, which connecting portion comprises a rigid projecting

portion (seen as the projecting portion of clip 20 in Fig. 1), and which receiving means comprises an aperture receiving means (seen as the hole in eyelet 16 in Fig. 1).

Regarding claim 12, the figures of Oster illustrate a road traffic control upright (seen as post 22) comprising a tape dispenser as discussed in claim 1 above, engaged upon and/or about an uppermost part thereof.

Regarding claim 13, Oster discloses a temporary road traffic barrier as discussed with respect to claim 1 above, and also discloses tape (seen as tape 18) deployed therefrom extending to a receiving means on another cartridge (seen as eyelet 16).

Regarding claim 14, Oster discloses a plurality of road traffic control uprights on at least some of which are mounted the cartridges (since col 2, lines 5-11 disclose an eyelet 16 affixed to the housing 12 so that another clip from another barrier can engage the eyelet 16), with tape deployed therefrom (seen as tape 18) and extending between at least some of the dispenser cartridges (see Fig. 1).

Regarding claim 15, Oster discloses the limitations of the claimed invention as discussed with respect to claim 1 above.

Regarding claim 16, Oster discloses a method as recited as discussed with respect to the elements of claim 1 above.

Regarding claim 17, Oster discloses at least one terminating mounting unit (which can be viewed as another barrier 10) and a receiving means (seen as eyelet 16), the method including engaging the leading edge of the dispense tape (18) from at least one of the cartridges to the receiving means on such a terminating mounting unit (since the leading edge 20 of tape 18 can be engaged to an eyelet 16 on another barrier 10).

Regarding claim 20, the diameter of the lower end of housing (12) is larger than the diameter of post (22) as shown in Fig. 1.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oster (US 4,844,420).** Oster fails to disclose a plurality of receiving means disposed radially around the cartridge. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the single eyelet (16) on the cartridge to be a plurality of such eyelets disposed radially around the cartridge, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

6. **Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oster (US 4,844,420) as applied to claim 1 above, and further in view of Signorelli (US 6,053,657).** Oster fails to disclose the tape incorporating a surface pattern or layer with hazard warning markings or information, and fails to disclose the tape as having reflective surfaced material. Fig. 11 of Signorelli designates "work area" on the tape as an indicator, and states in column 1, lines 29-30 that reflective materials

Art Unit: 3671

may also be used to improve visibility. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the barrier unit of Oster to have a suitable hazard warning or information on it and have tape with reflective material as taught by Signorelli, since such barrier units are used to alert and divert vehicles and dispense safety material (Col 1, lines 5-12).

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oster (US 4,844,420) as applied to claim 7 above, and further in view of Langlie et al (US 6,595,496). Oster fails to disclose releasable locking means. Langlie teaches a lock lever (54) to forcibly clamp the fence strand material (34) against a finger (60) see Fig. 4) and against the housing (30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the barrier unit of Oster to include a releasable locking means as taught by Langlie, since such a locking means provides the ability to lock the fence strand material or a tape in a particular position at a desired length for use.

8. Claims 18, 19, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oster (US 4,844,420) as applied to claims 1 and 16 respectively above, and further in view of Johnson (US 6,119,621). Oster fails to disclose the upright as a traffic cone or a triangularly shaped traffic control device. The lower part of housing (12) already can be considered as flexibly deforming around an outer portion of a traffic control upright as shown in Fig. 1 of Oster. Johnson teaches a self-storing barrier tape mounted on a modular cone (see Fig. 1). Johnson states that the modular cone (10) with base member (14) and tubular member (12) is inexpensive, versatile and

Art Unit: 3671

may be used by a variety of people in different situations (Col 2, lines 48-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the road traffic control upright of Oster to comprise a traffic cone or triangularly shaped traffic control device as taught by Johnson, since Johnson states that such traffic cone or triangular shaped cone is versatile and can be used for a variety different people in different situations (Col 2, lines 48-60).

Conclusion

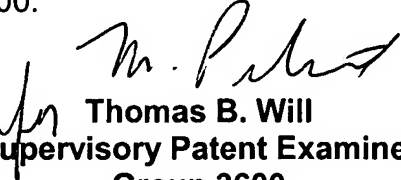
9. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3671

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (571) 272-6994. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (571) 272-6998. The fax phone number for this Group is (571) 273-8300.


Thomas B. Will
Supervisory Patent Examiner
Group 3600

AKP
4/18/06